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EXAMINER

PHAN, HAU VAN

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Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION



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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/923,694
Filing Date: August 07, 2001
Appellant(s): BLANKENBURG ET AL.

William Hanlon
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/19/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-8 and 16-20 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,421,934	Graf	7-2002
6,109,622	Reynolds	8-2000
4,783,911	Brown	11-1988

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graf (6,421,934) in view of Reynolds (6,109,622).

Graf in figures 1-2 discloses a skate boot and getting up aid for such a skate boot comprising a protective shell (1) having first and second opposing side walls (4) and a sole (6) joined by toe and heel portions having a first end and a second end. The shell defined an interior cavity adapted for a receiving a goalie ice skate boot. Graf also discloses a holder unitarily formed as part of the sole of the shell. The holder has an open-ended groove (figure 2) extending lengthwise thereover. Graf also discloses a blade (2) received in the open ended groove after the holder has been unitarily formed

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with respect to the shell. The blade has a blade edge and at least two legs projecting from the blade edge. Graf fails to show and at least two transversely extending bores formed in the holder, apertures formed in the legs and fasteners engagable through the apertures in the legs of the blade and the bores in the holder to removably affix the blade to the holder.

Reynolds in figure 2 teaches an ice skate chassis comprising a holder (1), a blade (79) and fasteners (65). The holder has at least two transversely extending bores (50, 51) formed in the holder. The blade has apertures (70, 71) in legs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the skate boot and getting up aid for such a skate boot of Graf with the ice skate chassis having at least two transverse bores, apertures and fasteners as taught by Reynolds in order to increase the force opposing deformation of the blade given by the transverse force.

Regarding claim 2, Graf discloses the open-ended groove, which is integrally formed with respect to the toe and heel portions and releasibly engages the blade.

Regarding claim 3, Reynolds discloses the corresponding number of bores (50, 51), which are integrally formed with respect to toe and heel portions (5, 7).

Regarding claims 4-5, Graf discloses at least one slot (figure 1) for receiving at least one lateral support defined by the holder. Wherein the at least one slot is integrally formed with respect to the toe and heel portions.

Regarding claim 6, Graf discloses the first sidewall defines a low profile in at least a central portion of the skate and with corresponding number of bores from

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Reynolds into the sidewall of Graf. The corresponding numbers of bore are integrally formed with respect to the low profiled of the first opposed sidewall.

Regarding claim 7, Graf discloses the second sidewall defines an ankle portion rising above an upper extend of the heel portion and with corresponding number of bores from Reynolds into the sidewall of Graf. The corresponding numbers of bore are integrally formed with respect to the ankle portion of the second opposed sidewall.

Regarding claim 8, Graf discloses in figure 1 discloses at least one of the aperture formed in the legs and with the number of aperture from Reynolds. The at least one aperture formed in the legs is offset from a substantially longitudinal axis of the corresponding leg.

Regarding claim 17, Reynolds discloses a first bore (50) adjacent the toe portion (5). The sole disposed between and unitarily formed with the first bore and the toe portion. Reynolds also discloses a second bore (51) adjacent the heel portion (7). The sole disposed between and unitarily formed with the second bore and the heel portion.

Regarding claim 18, Graf discloses a first opposed side wall extending between the toe portion and the heel portion and defining a low profile in at least a central portion of the first opposed side wall. Graf also discloses a second opposed sidewall extending between the toe portion and the heel portion and defining an ankle portion rising above an upper extend of the heel portion.

Regarding claim 19, Graf discloses at least one slot in the open ended groove extending along a longitudinal axis of the sole to receive a lateral support defined by a blade received in the open ended groove.

Regarding claim 20, Graf discloses a blade (2) receivable with respect to the open-ended groove. The blade includes a blade portion, first and second legs extending substantially transverse to the blade portion. The first leg defined a first projection extending substantially parallel to the blade portion and toward the second leg. The second leg defined a second projection extending substantially parallel to the blade portion and toward the first leg.

Claims 1-8 and 16-20 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (4,783,911) in view of Reynolds (6,109,622).

Brown in figures 14-15 discloses a skate boot comprising a protective shell (112) having first and second opposing side walls (126, 124) and a sole (128) joined by toe and heel portions having a first end and a second end. The shell defined an interior cavity adapted for a receiving a goalie ice skate boot. Brown also discloses a holder unitarily formed as part of the sole of the shell. The holder has an open-ended groove (154) extending lengthwise thereover. Brown also discloses a blade (154) received in the open ended groove after the holder has been unitarily formed with respect to the shell. The blade has a blade edge and at least two legs projecting from the blade edge. Brown fails to show and at least two transversely extending bores formed in the holder, apertures formed in the legs and fasteners engagable through the apertures in the legs of the blade and the bores in the holder to removably affix the blade to the holder.

Reynolds in figure 2 teaches an ice skate chassis comprising a holder (1), a blade (79) and fasteners (65). The holder has at least two transversely extending bores (50, 51) formed in the holder. The blade has apertures (70, 71) in legs. It would have

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been obvious to one of ordinary skill in the art at the time the invention was made to modify the skate boot and getting up aid for such a skate boot of Brown with the ice skate chassis having at least two transverse bores, apertures and fasteners as taught by Reynolds in order to increase the force opposing deformation of the blade given by the transverse force.

Regarding claim 2, Brown discloses the open-ended groove, which is integrally formed with respect to the toe and heel portions and releasibly engages the blade.

Regarding claims 3 and 17, Reynolds discloses the corresponding number of bores (50, 51), which are integrally formed with respect to toe and heel portions (5, 7).

Regarding claims 4-5 and 19, Reynolds discloses at least one slot (figure 1) for receiving at least one lateral support defined by the holder. Wherein the at least one slot is integrally formed with respect to the toe and heel portions.

Regarding claims 6 and 18, Brown discloses the first sidewall defines a low profile in at least a central portion of the skate and with corresponding number of bores from Reynolds into the sidewall of Brown. The corresponding numbers of bore are integrally formed with respect to the low profiled of the first opposed sidewall.

Regarding claims 7 and 18, Brown discloses the second sidewall defines an ankle portion rising above an upper extend of the heel portion and with corresponding number of bores from Reynolds into the sidewall of Brown. The corresponding numbers of bore are integrally formed with respect to the ankle portion of the second opposed sidewall.

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Regarding claim 8, Reynolds discloses in figure 1 discloses at least one of the aperture formed in the legs. The at least one aperture formed in the legs is offset from a substantially longitudinal axis of the corresponding leg.

Regarding claim 20, Reynolds discloses a blade receivable with respect to the open-ended groove including a blade portion and first and second legs (as shown in figure 2) extending substantially transverse to the blade portion. The first leg defines a first projection extending substantially parallel to the blade portion and toward the second leg. The second leg defines a first projection extending substantially parallel to the blade portion and toward the first leg.

(11) *Response to Argument*

In response to appellants that Examiner has ignored or not given sufficient consideration and weight to one of the Appellants' assertions in paragraphs 3 and 4 of the previous submitted 1.132 Declaration. The examiner disagrees, because that Declaration has been considered by the examiner (see appendix B of the Appellant).

Appellant's arguments that Graf never forms an open-ended groove in the holder after the holder has been unitarily formed with the shell, which is capable of receiving a blade fixable in the groove by fasteners.

In response, Graf in figures 1-2, discloses a skate boot comprising a sole (6) and a holder (not number, see figure 2). The holder forms an open-ended groove for receiving a blade (2), which is fixable in the groove by a fastener (not shown, figure 1 appear to have a slot for the fastener).

Appellant's also arguments that the drawing of Graf that the only process capable of mounting the blade in the holder portion of the shell is through an insert molded process wherein the skate blade is supported in a mold and then the plastic injected into the mold and around and through a portion of the blade to form the shell and holder.

In response, the claimed material appear to be the same as Graf's shell boot material, since both are plastic. Regardless of whether a blade holder integrally formed with respect to the sole and the protective shell including an open ended groove for receiving the blade, as in the claim, or the blade is supported in a molde and then the plastic injected into the mold to form the shell and holder as in the prior art reference, the produc itself appears to be the same. Graf also does not disclose the method of making a skate boot and how to insert the blade to the blade holder. Therefore, the explanation base on the drawing can be addressed in many the other ways .

Appellant's also arguments that the holder and removably blade of Reynolds is intended for use solely in a conventional ice skate and not a goalie skate attachment wherein a shell, holder and blade receive in a slide-in-ice skate boot.

In response, Reynolds teaches an ice skate chassis and blade holder comprising a blade (79), which has a structure that is capable to use solely in a goalie skate.

Appellant's also arguments that the drawing of Brown that is devoid of any teaching or suggestion of removably mounting the blade in the holder by the use of separate fasteners engagable with portions of the blade and portions of the holder.

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In response, the claimed material appear to be the same as Brown's shell boot material, since both are plastic. Regardless of whether a blade holder integrally formed with respect to the sole and the protective shell including an open ended groove for receiving the blade, as in the claim, or the blade is supported in a molde and then the plastic injected into the mold to form the shell and holder as in the prior art reference, the produc itsefl appears to be the same. Brown also does not disclose the method of making a skate boot and how to insert the blade to the blade holder. Therefore, the explanation base on the drawing can be addressed in many the other ways .

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Hau V Phan
Examiner
Art Unit 3618

August 31, 2004

Conferees

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